

Remarks

The present response is to the action mailed in the above-referenced case on June 04, 2003. Claims 1-14 are presented for examination. Claims 1-7, 11 and 12 are withdrawn from consideration as acknowledged in applicant's election without traverse in paper no. 4. Claims 8-10, 13 and 14 are standing for further examination.

The Examiner objects to the specification as not including a specific reference to the earlier application, as the present application is filed as a Divisional Application. Claim 9 is objected to by the Examiner. Claims 8-10, 13, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yong et al., (U.S. 5,541,919) hereinafter Yong, in view of Woundy (US 6,031,841) hereinafter Woundy.

Regarding claim 8, the Examiner states that Yong discloses a data transmission system comprising a high priority queue reserved for data entities requiring that data entities be sent in a successive fashion at or above a minimum rate; a lower priority data entity queue (col. 3, lines 27-47 and col. 4, line 40-col. 5, line 6); and control routines adapted for dividing large data entities in the lower priority queue into multiple smaller data entities of a size that may be transmitted interspersed with data entities from the high priority queue (col. 3, lines 27-47, col. 4, line 40 -col. 5, line 6, and col. 9, line 43-col. 10 line 15).

The Examiner admits that Yong does not specifically disclose a broadband transmission and transmitting system without causing the rate of the transmission to fall below the minimum rate. The Examiner relies on the art of Woundy to teach satellite broadband transmission of packets with QOS (Woundy Col. 1, line 19-61) with a similar system as Yong. The

Examiner states it would have been obvious to have satellite transmissions and QOS , taught by Woundy, into the priority based transmission system, taught by Yong, in order to be more global and regulating the transmission.

Applicant respectfully traverses the Examiner's interpretation of Yong. Applicant argues that Yong fails to disclose control routines as disclosed and claimed in applicant's invention. Applicant argues that Yong specifically teaches bandwidth sharing between high and low priority data sources using two different queuing disciplines known as Head of Line Priority (HOLP) and Weighted Round Robin (WRR). Column 4 lines 39-54 and Fig. 3 of Yong clearly teach the control flow wherein priority groups (PG's) are set up and assigned priority. Lower PG's are not given an opportunity to transmit data unless there are no packets in a high PG. Yong states that any process of sending a particular PG can be interrupted by a higher priority PG, but not by a lower priority PG.

Applicant argues that Yong clearly teaches away from control routines for dividing large data entities in the lower priority queue into multiple smaller data entities of a size that may be transmitted interspersed with data entities from the high priority queue. In Yong's system it is not possible to transmit lower priority data interspersed with data entities from the high priority queue as claimed in applicant's invention. Therefore, the obvious rejection fails, as the combination of Yong with Woundy could not possibly accomplish applicant's invention as claimed.

Applicant believes claim 8 is patentable as argued above. Claims 9 and 10 are patentable on their own merits, or at least as depended from a patentable claim. Claim 13 is rejected by the Examiner using the same reasoning as provided for claim 8. Therefore, claim 13 is also patentable based on the arguments provided by applicant on behalf of claim 8. Claim 14 is patentable on it's own merits, or at least as depended from a patentable

claim.

Applicant believes the claims as amended, argued and presented for examination are patentable to applicant over the references cited and applied, and therefore requests reexamination and that the case be passed quickly to issue.

If there are any extensions of time required beyond an extension specifically petitioned and paid with this response, such extensions are hereby requested. If there are any fees due beyond any fees paid by check with this response, authorization is given to deduct such fees from deposit account 50-0534.

Respectfully Submitted,

Dan Kikinis

by 
Donald R. Boys
Reg. No. 35,074

Donald R. Boys
Central Coast Patent Agency
P.O. Box 187
Aromas, CA 95004
(831) 726-1457